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ADOBE SYSTEMS INCORPORATED
8 and ELECTRONIC ARTS INC.

9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 DIGITAL REG OF TEXAS, LLC,

14 Plaintiff,

15 vs.

16 ADOBE SYSTEMS INCORPORATED, et al.,

17 Defendants.
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Civil Case No. 12-CV-01971 CW (KAW)

**DECLARATION OF JONATHAN
HERBACH IN SUPPORT OF
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
OF NONINFRINGEMENT BASED ON
DIGITAL REG'S LICENSE TO
MICROSOFT**

1 I, Jonathan Herbach, declare:

2 1. I am an employee of Defendant Adobe Systems Incorporated (“Adobe”)
3 in the above-captioned matter. I submit this declaration based on personal knowledge and
4 following a reasonable investigation. If called upon as a witness, I could competently testify to
5 the truth of each statement herein.

6 2. I submit this declaration pursuant to Civil Local Rule 79-5(d), in support
7 of Adobe System Incorporated’s Motion for Partial Summary Judgment Based on A License to
8 The Asserted Patents.

9 3. I have worked for Adobe for 12 years, and my current job title is Senior
10 Product Manager. During my time at Adobe, I have worked extensively on projects related to
11 Adobe’s LiveCycle products.

12 4. Adobe LiveCycle is an enterprise document control and management
13 system that allows control over usage rights and access to documents. Adobe LiveCycle Rights
14 Management is a server-based security system that provides dynamic control over documents.
15 As such, LiveCycle Rights Management requires communication between servers, databases,
16 operating systems, and web browsers.

17 5. Adobe only supports the use of LiveCycle Rights Management in
18 conjunction with certain versions of Microsoft Windows, Macintosh, iOS, and Android
19 operating systems, and the only browsers supported by Adobe for such use are Microsoft
20 Internet Explorer 7 or later, Firefox 13 or later, Chrome 6 or later, and Safari 6 or later.

21 6. When used in conjunction with Microsoft Windows, the Windows
22 operating system plays a vital role in regulating access to protected documents. For example,
23 when a user tries to open a protected document, the Rights Management server is contacted so
24 that the user can be authorized before being provided access to the document. To do so, the
25 client interacts with the operating system and the end user to authenticate the user. If the
26 specified authentication mechanism involves Kerberos, the Windows operating system
27 mediates the authentication. If the server is unable to be contacted and the document is enabled
28 for off-line use, the local Windows login credential is used to decrypt a key that is used in the

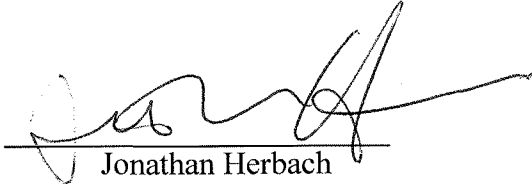
1 off-line access mechanism. All communication with the server is made through Windows
2 operating system application programming interfaces for HTTP communication over SOAP or
3 REST-like protocols.

4 7. Without authentication, the user will not be granted access to the
5 document.

6 8. Among the types of documents that can be protected with Adobe's
7 LiveCycle products are certain types of Microsoft documents, including Microsoft Office
8 documents such as documents created in Word, Excel, or PowerPoint. Whenever a user tries to
9 access protected content that has been saved in such a format, the underlying Microsoft product
10 is essential to gaining access to the content, and correctly enforcing the appropriate
11 permissions. In such circumstances, the Microsoft product in conjunction with Adobe's
12 software initiates communication with the Rights Management server to authenticate the user,

13 I declare under the penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.

15 Executed June 18, 2013.

16 
17 Jonathan Herbach